

SENATE BILL REPORT

SJM 8028

As Passed Senate, February 9, 1996

Brief Description: Requesting clarification of the Indian Gaming Regulatory Act of 1988.

Sponsors: Senators Wojahn, Pelz, Sutherland, Heavey, Haugen, Schow, Oke and Morton.

Brief History:

Committee Activity: Labor, Commerce & Trade: 1/30/96, 1/31/96 [DP].
Passed Senate, 2/9/96, 45-0.

SENATE COMMITTEE ON LABOR, COMMERCE & TRADE

Majority Report: Do pass.

Signed by Senators Pelz, Chair; Heavey, Vice Chair; A. Anderson, Deccio, Franklin, Fraser, McDonald, Newhouse and Wojahn.

Staff: Traci Ratzliff (786-7452)

Background: In 1988, Congress enacted the Indian Gaming Regulatory Act (IGRA) to provide a comprehensive scheme to govern gambling on Indian reservations.

IGRA allows tribes to conduct class I and class II gaming without state approval as long as the state permits such gaming. Class I gaming consists of "social games solely for prizes or minimal value or traditional forms of Indian gaming engaged in as part of or in connection with tribal ceremonies or celebrations." Class II gaming consists of bingo, and if played at the same location as bingo, "pulltabs, lotto, punchboards, tip jars, instant bingo and other games similar to bingo provided the state permits such gaming." Banking card games, and electronic or electro-mechanical facsimiles of any game of chance or slot machines of any kind are specifically excluded from the definition of class II gaming. Class III gaming is defined as "all forms of gaming that are not class I gaming or class II gaming."

Class III gaming may be operated on tribal lands only if the games: are authorized by the governing body of the tribe; are located in a state that permits such gaming for any purpose by any person, organization, or entity; and are conducted in conformance with a tribal-state compact entered into by the Indian tribe and the state. A tribe that desires to conduct class III gaming must request the state to negotiate a compact. The state must negotiate with the tribe in good faith.

There has been dispute over the meaning of the phrase "such gaming for any purpose by any person, organization or entity." Some say that if "such gaming" means any class III gaming, then a state that allows any class III gaming, such as horse racing or a state lottery must negotiate with the tribes over all forms of class III gaming requested. Several states, including Washington, have decided that "such gaming" as used in IGRA refers to a specific type of class III gaming. As a result, Washington State has been

unwilling to negotiate with the tribes for the operation of slot machines or any other class III gaming activity which is specifically prohibited by state law. Federal courts have handed down various opinions on this matter -- some support our state's interpretation and some do not. Given the various interpretations of this provision, it is clear that some clarification of IGRA is needed in this area.

Summary of Bill: Congress is requested to implement legislation clarifying the intent of the Indian Gaming Regulatory Act. Congress is specifically asked to implement legislation ensuring that only those specific gambling activities authorized under state law are subject to negotiation between tribal governments and a state government and that no state is required to negotiate on any specific type of gambling that is not either authorized, or played, or both within a particular state.

Appropriation: None.

Fiscal Note: Not requested.

Testimony For: This legislation will send a message to Congress that it needs to look at the IGRA and make changes to this law that will resolve questions related to the type and scope of gaming that a state may or may not be required to permit tribes to operate under a Class III gaming compact.

Testimony Against: None.

Testified: Senator Wojahn, prime sponsor (pro).